

**REMARKS/ARGUMENTS**

Initially, Applicants wish to thank Examiner Lu for his time and courtesies in conducting the telephone interview with the undersigned on November 15, 2010. To the extent that upon review of this responsive amendment, the Examiner has any additional suggestions that in his view, would expedite allowance, he is kindly encouraged to contact the undersigned attorney before issuing any further Office Actions.

Amendments to the claims are discussed below in connection with the various objections and rejections. Applicants have made an earnest effort to resolve all remaining issues regarding alleged indefiniteness, and to place this application in condition for allowance. For instance, in addition to canceling claims 22 and 23, and amending each of the independent claims 1, 74 and 78 to recite that the method is directed to detection of the analyte "in a sample", support for which is contained in Paragraph [0011], for example, Claim 74 is being amended to include recitations reflecting the inverse orientations of the first and second single stranded oligonucleotides, the presence of a "second portion" of the second oligo, the formation of a hybrid between the second portions of the first and second oligos, and that the 3' terminus of the second portion of the second oligonucleotide is the "one" 3' terminus of the hybrid that is capable of being extended via a polymerase to form a complement of the second portion of the first oligonucleotide. Support for this amendment may be found throughout the specification, including for example, the disclosure in Paragraph [0097] and the illustration in Fig. 1J, for example. The Examiner is also referred to the disclosure in Paragraph [0013]. Claim 78 has been amended in similar fashion (except that it does not limit the number of

free 3' termini that are capable of being extended via a polymerase), support for which is contained in Paragraph [0099] and the illustration in Fig. 2D, for example.

In view of the foregoing, Applicants submit that no new matter is being added. Accordingly, entry of the amendments is respectfully requested.

In view of the cancellation of claim 23, the objection set forth in Paragraph 3 has been rendered moot.

Applicants respectfully request reconsideration of the grounds of objection set forth in Paragraph 2. The order in which the terms "first" and "second" appear with respect to the recitation "single stranded" is not critical. In addition, Applicants submit that the order in which these terms appear in the claims is consistent with art-recognized usage. Thus, withdrawal of the objection is respectfully requested.

Claims 1-8, 10-14, 20-27, 29, 30, 74 and 78 have been rejected under 35 U.S.C. § 112, second paragraph, as indefinite on multiple grounds as enumerated in Paragraphs 6-10. Initially, Applicants submit that in view of the cancellation of claims 22 and 23, the grounds of rejection set forth in Paragraphs 8 and 9 have been rendered moot. Further to the discussion of these claims that transpired during the telephone interview, Applicants respectfully remind the Examiner that claim 1 does recite that the hybridization blocker oligonucleotide is present at a concentration "in excess of" the concentration of the first and second proximity members, and that in view of the teachings in the specification, notably working Example 8 which demonstrates the embodiments embraced by these claims, Applicants submit that a person of ordinary skill in the art

would readily appreciate the metes and bounds of the claim. Nonetheless, in order to expedite prosecution of this application toward allowance, Applicants are cancelling claims 22 and 23.

In response to the grounds of rejection set forth in Paragraphs 7 and 10, Applicants have amended claims 1, 74, and 78 to recite that the methods are for purposes of detecting an analyte "in a sample." The last phrases of each of these claims have also been amended for purposes of consistency (*i.e.*, wherein detection of the amplification product indicates "presence" of the analyte "in the sample").

Lastly, in response to the ground of rejection set forth in Paragraph 6, each of claims 1, 74 and 78 has also been amended to even more clearly point out that upon formation of a hybrid, at least one 3' terminus of the first or second oligonucleotide remains single-stranded and thus capable of being extended via a polymerase. As stated herein, claim 74 recites that just one 3' terminus remains single-stranded upon formation of a hybrid.

In view of the foregoing, Applicants respectfully submit that all grounds of rejection have been adequately addressed. Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: November 23, 2010

Respectfully submitted,  
Electronic signature:  
/Shawn P. Foley/  
Shawn P. Foley  
Registration No.: 33,071  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicant

1295005\_1.doc